

103D CONGRESS  
1ST SESSION

# H. R. 3248

To provide for fair trade in financial services.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 1993

Mr. SCHUMER (for himself, Mr. LEACH, and Mr. STARK) introduced the following bill; which was referred jointly to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Ways and Means

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## A BILL

To provide for fair trade in financial services.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Fair Trade in Financial Services Act of 1993”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Effectuating the principle of national treatment for banking organizations.
- Sec. 3. Effectuating the principle of national treatment for securities organizations.
- Sec. 4. Financial interdependence study.
- Sec. 5. Conforming amendments.

1 **SEC. 2. EFFECTUATING THE PRINCIPLE OF NATIONAL**  
2 **TREATMENT FOR BANKING ORGANIZATIONS.**

3 The International Banking Act of 1978 (12 U.S.C.  
4 3101 et seq.) is amended by adding at the end the follow-  
5 ing new section:

6 **“SEC. 18. NATIONAL TREATMENT.**

7 “(a) PURPOSE.—The purpose of this section is to en-  
8 courage foreign countries to accord national treatment to  
9 United States banking organizations that operate or seek  
10 to operate in those countries.

11 “(b) IDENTIFYING COUNTRIES THAT DENY NA-  
12 TIONAL TREATMENT TO UNITED STATES BANKS OR  
13 BANK HOLDING COMPANIES.—The Secretary shall iden-  
14 tify the extent to which foreign countries deny national  
15 treatment to United States banking organizations—

16 “(1) according to the most recent report under  
17 section 3602 of the Omnibus Trade and Competi-  
18 tiveness Act of 1988 (or update thereof); or

19 “(2) based on more recent information that the  
20 Secretary deems appropriate.

21 “(c) DETERMINING WHETHER DENIAL OF NA-  
22 TIONAL TREATMENT HAS SIGNIFICANT ADVERSE EF-  
23 FECT.—

24 “(1) IN GENERAL.—The Secretary shall deter-  
25 mine whether the denial of national treatment to  
26 United States banking organizations by a foreign

1 country identified under subsection (b) has a signifi-  
2 cant adverse effect on such organizations.

3 “(2) FACTORS TO BE CONSIDERED.—In deter-  
4 mining whether and to what extent a foreign country  
5 denies national treatment to United States banking  
6 organizations, and in determining the effect of any  
7 such denial on such banking organizations, the Sec-  
8 retary shall consider appropriate factors, including—

9 “(A) the size of the foreign country’s mar-  
10 kets for the financial services involved, and the  
11 extent to which United States banking organi-  
12 zations operate or seek to operate in those mar-  
13 kets;

14 “(B) the extent to which United States  
15 banking organizations may participate in devel-  
16 oping regulations, guidelines, or other policies  
17 regarding new products, services, and markets  
18 in the foreign country;

19 “(C) the extent to which the foreign coun-  
20 try issues written regulations, guidelines, or  
21 other policies applicable to United States bank-  
22 ing organizations operating or seeking to oper-  
23 ate in the foreign country that are—

24 “(i) prescribed after adequate notice  
25 and opportunity for comment;

1 “(ii) readily available to the public;  
2 and

3 “(iii) prescribed in accordance with  
4 objective standards that effectively prevent  
5 arbitrary and capricious determinations;

6 “(D) the extent to which United States  
7 banking organizations may offer foreign ex-  
8 change services in the foreign country; and

9 “(E) the effects of the regulatory policies  
10 of the foreign country on—

11 “(i) the lending policies of the central  
12 bank of that country;

13 “(ii) capital requirements applicable  
14 in that country;

15 “(iii) the regulation of deposit interest  
16 rates by that country;

17 “(iv) restrictions on the operation and  
18 establishment of branches in that country;  
19 and

20 “(v) restrictions on access to auto-  
21 mated teller machine networks in that  
22 country.

23 “(d) DETERMINATION.—

24 “(1) PUBLICATION.—If the Secretary deter-  
25 mines that the denial of national treatment to Unit-

1 ed States banking organizations by a foreign country  
2 has a significant adverse effect on such organiza-  
3 tions, the Secretary—

4 “(A) may, after initiating negotiations in  
5 accordance with subsection (g), and after con-  
6 sultation with the United States Trade Rep-  
7 resentative, the Secretary of State, and any  
8 other department or agency that the Secretary  
9 deems appropriate, publish that determination  
10 in the Federal Register;

11 “(B) shall, not less frequently than annu-  
12 ally, in consultation with any department or  
13 agency that the Secretary deems appropriate,  
14 review each such determination to determine  
15 whether it should be rescinded; and

16 “(C) shall inform State bank supervisors  
17 of the publication of that determination.

18 “(2) EXCEPTION FOR COUNTRIES THAT ARE  
19 PARTIES TO CERTAIN AGREEMENTS GOVERNING FI-  
20 NANCIAL SERVICES.—Paragraph (1) shall not apply  
21 to a foreign country to the extent that a determina-  
22 tion under that paragraph with respect to the for-  
23 eign country would permit action to be taken under  
24 this section that would be inconsistent with a bilat-  
25 eral or multilateral agreement that governs financial

1 services that the President entered into with that  
2 country and the Senate and the House of Represent-  
3 atives approved, before the date of enactment of this  
4 section.

5 “(e) SANCTIONS.—

6 “(1) ACTION BY FEDERAL BANKING AGENCY.—

7 If a determination under subsection (d)(1) is in ef-  
8 fect with respect to a foreign country and a publica-  
9 tion of that determination has been made in accord-  
10 ance with subsection (d)(1)(A), in evaluating an ap-  
11 plication or notice filed by a person of that foreign  
12 country, the appropriate Federal banking agency—

13 “(A) shall consider the determination and  
14 the conclusions of—

15 “(i) the reports required under section  
16 3602 of the Omnibus Trade and Competi-  
17 tiveness Act of 1988 (and updates there-  
18 to); and

19 “(ii) the reports submitted in accord-  
20 ance with subsection (h);

21 “(B) shall consult with the Secretary con-  
22 cerning such determination and conclusions;  
23 and

24 “(C) may, only with the concurrence of the  
25 Secretary, deny the application or disapprove

1 the notice, based on the determination under  
2 subsection (d)(1).

3 “(2) PREVENTING EXISTING ENTITIES FROM  
4 BEING USED TO EVADE THIS SECTION.—

5 “(A) IN GENERAL.—If a determination has  
6 been published in accordance with subsection  
7 (d)(1)(A) with respect to a foreign country, a  
8 bank, foreign bank described in section 8(a),  
9 branch, agency, commercial lending company,  
10 or other affiliated entity that is a person of that  
11 country shall not, without prior approval of the  
12 appropriate Federal banking agency, after con-  
13 sultation with the State bank supervisor, di-  
14 rectly or indirectly, in the United States—

15 “(i) commence any line of business in  
16 which the person was not engaged as of  
17 the date the determination was published  
18 in the Federal Register; or

19 “(ii) conduct business from any loca-  
20 tion at which the person did not conduct  
21 business as of that date.

22 “(B) EXCEPTION.—Subparagraph (A)  
23 shall not apply with respect to companies de-  
24 scribed in section 2(h)(2) of the Bank Holding  
25 Company Act of 1956.

1 “(f) EXEMPTIONS FROM SANCTIONS.—

2 “(1) IN GENERAL.—Subsection (e) does not  
3 apply to the subsidiaries in the United States of a  
4 person of a foreign country if the Secretary deter-  
5 mines that the banking laws and regulations of the  
6 foreign country, as actually applied, meet or ex-  
7 ceed—

8 “(A) the standards for treatment of sub-  
9 sidiaries of United States banking organizations  
10 contained in the Second Banking Directive, and  
11 in any amendment to the Second Banking Di-  
12 rective, if the Secretary determines that such  
13 amendment—

14 “(i) does not restrict any operation,  
15 activity, or authority to expand any oper-  
16 ation or activity, permitted under those  
17 standards, of any subsidiary in the foreign  
18 country of any such bank or bank holding  
19 company; or

20 “(ii) is in accordance with national  
21 treatment of subsidiaries of such banking  
22 organizations; or

23 “(B) any set of standards that, taken as a  
24 whole, is no less favorable to United States



1 banking organizations than the standards re-  
2 ferred to in subparagraph (A).

3 “(2) STANDARDS FOR EXERCISE OF DISCRE-  
4 TION.—In exercising any discretion under this sub-  
5 section, the Federal banking agencies, after con-  
6 sultation with the Secretary, shall consider, with re-  
7 spect to a bank, foreign bank, branch, agency, com-  
8 mercial lending company, or other affiliated entity  
9 that is a person of a foreign country and is operat-  
10 ing in the United States—

11 “(A) the extent to which the foreign coun-  
12 try is progressing toward according national  
13 treatment to United States banking organiza-  
14 tions; and

15 “(B) whether the foreign country permits  
16 United States banking organizations to expand  
17 their activities in that country, even if that  
18 country determined that the United States did  
19 not accord national treatment to the banking  
20 organizations of that country.

21 “(g) NEGOTIATIONS.—

22 “(1) IN GENERAL.—The Secretary—

23 “(A) shall initiate negotiations with any  
24 foreign country with respect to which a deter-

1 mination made under subsection (d)(1) is in ef-  
2 fect; and

3 “(B) may initiate negotiations with any  
4 foreign country which denies national treatment  
5 to United States banking organizations to en-  
6 sure that the foreign country accords national  
7 treatment to such organizations.

8 “(2) EXCEPTIONS.—Paragraph (1) does not re-  
9 quire the Secretary to initiate negotiations with a  
10 foreign country if the Secretary—

11 “(A) determines that the negotiations—

12 “(i) would be so unlikely to result in  
13 progress toward according national treat-  
14 ment to United States banking organiza-  
15 tions as to be a waste of effort; or

16 “(ii) would impair the economic inter-  
17 ests of the United States; and

18 “(B) gives written notice of that deter-  
19 mination to the chairperson and the ranking  
20 minority member of the Committee on Banking,  
21 Housing, and Urban Affairs of the Senate and  
22 of the Committee on Banking, Finance and  
23 Urban Affairs of the House of Representatives.

24 “(h) REPORT.—

1           “(1) CONTENTS OF REPORT.—Not later than  
2       December 1, 1994, and biennially thereafter, the  
3       Secretary shall submit to the Congress a report  
4       that—

5           “(A) specifies the foreign countries identi-  
6       fied under subsection (b);

7           “(B) if a determination under subsection  
8       (d)(1) is in effect with respect to the foreign  
9       country, provides the reasons therefor;

10          “(C) if the Secretary has not made or has  
11       rescinded such a determination with respect to  
12       the foreign country, provides the reasons there-  
13       for;

14          “(D) describes the results of any negotia-  
15       tions conducted under subsection (g)(1) with  
16       the foreign country; and

17          “(E) discusses the effectiveness of this sec-  
18       tion in achieving the purpose of this section.

19          “(2) SUBMISSION OF REPORT.—The report re-  
20       quired by paragraph (1) may be submitted as part  
21       of a report or update submitted under section 3602  
22       of the Omnibus Trade and Competitiveness Act of  
23       1988.

24          “(i) DEFINITIONS.—For purposes of this section, the  
25       following definitions shall apply:

1           “(1) APPROPRIATE FEDERAL BANKING AGEN-  
2           CY.—The term ‘appropriate Federal banking agen-  
3           cy’—

4                   “(A) in the case of a noninsured State  
5           bank or branch, means the Board of Governors  
6           of the Federal Reserve System; and

7                   “(B) in any other case, has the same  
8           meaning as in section 3 of the Federal Deposit  
9           Insurance Act.

10           “(2) BANKING ORGANIZATION.—The term  
11           ‘banking organization’ means a bank, including a  
12           branch or subsidiary thereof, or a bank holding com-  
13           pany.

14           “(3) NATIONAL TREATMENT.—A foreign coun-  
15           try accords ‘national treatment’ to United States  
16           banking organizations if it offers them the same  
17           competitive opportunities (including effective market  
18           access) as are available to its domestic banking orga-  
19           nizations.

20           “(4) PERSON OF A FOREIGN COUNTRY.—The  
21           term ‘person of a foreign country’ means—

22                   “(A) a person organized under the laws of  
23           the foreign country;

24                   “(B) a person that has its principal place  
25           of business in the foreign country;

1 “(C) an individual who is—

2 “(i) a citizen of the foreign country,

3 or

4 “(ii) domiciled in the foreign country;

5 and

6 “(D) a person that is directly or indirectly  
7 controlled by a person described in subpara-  
8 graph (A) or (B), or by an individual described  
9 in subparagraph (C).

10 “(5) SECOND BANKING DIRECTIVE.—The term  
11 ‘Second Banking Directive’ means the Second Coun-  
12 cil Directive of December 15, 1989, on the Coordi-  
13 nation of Laws, Regulations, and Administrative  
14 Provisions Relating to the Taking Up and Pursuit of  
15 the Business of Credit Institutions and Amending  
16 Directive 77/780/EEC (89/646/EEC).

17 “(6) SECRETARY.—The term ‘Secretary’ means  
18 the Secretary of the Treasury.”.

19 **SEC. 3. EFFECTUATING THE PRINCIPLE OF NATIONAL**  
20 **TREATMENT FOR SECURITIES ORGANIZA-**  
21 **TIONS.**

22 (a) PURPOSE.—The purpose of this section is to en-  
23 courage foreign countries to accord national treatment to  
24 United States securities organizations that operate or seek  
25 to operate in those countries.

1 (b) IDENTIFYING COUNTRIES THAT DENY NATIONAL  
2 TREATMENT TO UNITED STATES SECURITIES ORGANIZA-  
3 TIONS.—The Secretary shall identify whether and to what  
4 extent foreign countries deny national treatment to United  
5 States securities organizations—

6 (1) according to the most recent report under  
7 section 3602 of the Omnibus Trade and Competi-  
8 tiveness Act of 1988 (or update thereof); or

9 (2) based upon more recent information that  
10 the Secretary deems appropriate.

11 (c) DETERMINING WHETHER DENIAL OF NATIONAL  
12 TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—The  
13 Secretary shall determine whether the denial of national  
14 treatment to United States securities organizations by a  
15 foreign country identified under subsection (b) has a sig-  
16 nificant adverse effect on such organizations.

17 (d) DETERMINATION.—

18 (1) PUBLICATION.—If the Secretary determines  
19 that the denial of national treatment to United  
20 States securities organizations by a foreign country  
21 has a significant adverse effect on such organiza-  
22 tions, the Secretary—

23 (A) may, after initiating negotiations in ac-  
24 cordance with subsection (g), and after con-  
25 sultation with the United States Trade Rep-

1           representative, the Secretary of State, and any  
2           other department or agency that the Secretary  
3           deems appropriate, publish that determination  
4           in the Federal Register; and

5                 (B) shall, not less frequently than annu-  
6           ally, in consultation with any department or  
7           agency that the Secretary deems appropriate,  
8           review each such determination to determine  
9           whether it should be rescinded.

10           (2) EXCEPTION FOR COUNTRIES THAT ARE  
11           PARTIES TO CERTAIN AGREEMENTS GOVERNING FI-  
12           NANCIAL SERVICES.—Paragraph (1) shall not apply  
13           to a foreign country to the extent that a determina-  
14           tion under that paragraph with respect to the for-  
15           eign country would permit action to be taken under  
16           this section that would be inconsistent with a bilat-  
17           eral or multilateral agreement that governs financial  
18           services that the President entered into with that  
19           country and the Senate and the House of Represent-  
20           atives approved, before the date of enactment of this  
21           section.

22           (e) SANCTIONS.—

23                 (1) RECOMMENDATION BY THE SECRETARY.—  
24           If a determination under subsection (d)(1) is in ef-  
25           fect with respect to a foreign country, the Secretary

1 may, after consultation with the United States  
2 Trade Representative, the Secretary of State, and  
3 any other department or agency that the Secretary  
4 deems appropriate, and subject to the specific direc-  
5 tion of the President (if any), recommend to the  
6 Commission that the Commission deny any applica-  
7 tion or notice filed by a person of that foreign coun-  
8 try.

9 (2) ACTION BY COMMISSION.—If a determina-  
10 tion under subsection (d)(1) is in effect with respect  
11 to a foreign country and a publication of that deter-  
12 mination has been made in accordance with sub-  
13 section (d)(1)(A), in evaluating any application or  
14 notice filed by a person of that foreign country con-  
15 cerning which the Commission has received a rec-  
16 ommendation from the Secretary under paragraph  
17 (1), the Commission—

18 (A) shall consider—

19 (i) the recommendation of the Sec-  
20 retary; and

21 (ii) the determination and the conclu-  
22 sions of the reports and updates under sec-  
23 tion 3602 of the Omnibus Trade and Com-  
24 petitiveness Act of 1988 and the reports



1 submitted in accordance with subsection  
2 (g);

3 (B) shall consult with the Secretary con-  
4 cerning the determinations and conclusions re-  
5 ferred to in subparagraph (A)(ii); and

6 (C) may deny the application or disapprove  
7 the notice, unless the Commission determines  
8 that the denial or disapproval would be incon-  
9 sistent with the public interest and the protec-  
10 tion of investors.

11 (3) NOTICE REQUIRED TO ACQUIRE REG-  
12 ISTERED SECURITIES ORGANIZATION.—

13 (A) IN GENERAL.—If a determination  
14 under subsection (d)(1) is in effect with respect  
15 to a foreign country, no person of that foreign  
16 country, acting directly or indirectly, may ac-  
17 quire control of any registered securities organi-  
18 zation, unless—

19 (i) the Commission has been given no-  
20 tice not less than 90 days in advance of  
21 the acquisition, in such form as the Com-  
22 mission shall prescribe by rule and contain-  
23 ing such information as the Commission  
24 may require by rule or order; and

1 (ii) the Commission has not dis-  
2 approved the notice under paragraph  
3 (2)(C).

4 (B) NOTIFYING SECRETARY.—The Com-  
5 mission shall promptly notify the Secretary of  
6 any notice received under subparagraph (A).

7 (C) EXTENDING 90-DAY PERIOD.—The  
8 Commission may, by order, extend for an addi-  
9 tional 180 days the period during which the  
10 Commission may disapprove a notice received  
11 under subparagraph (A).

12 (4) STANDARDS FOR EXERCISE OF DISCRE-  
13 TION.—In exercising any discretion under this sub-  
14 section, the Secretary and the Commission shall con-  
15 sider, with respect to a securities organization that  
16 is a person of a foreign country and is operating in  
17 the United States—

18 (A) the extent to which the foreign country  
19 is progressing toward according national treat-  
20 ment to United States securities organizations;  
21 and

22 (B) whether the foreign country permits  
23 United States securities organizations to ex-  
24 pand their activities in that country, even if  
25 that country determined that the United States

1           did not accord national treatment to securities  
2           organizations of that country.

3       (f) NEGOTIATIONS.—

4           (1) IN GENERAL.—The Secretary—

5                (A) shall initiate negotiations with any for-  
6                eign country with respect to which a determina-  
7                tion under subsection (d)(1) is in effect; and

8                (B) may initiate negotiations with any for-  
9                eign country which denies national treatment to  
10              United States securities organizations to ensure  
11              that the foreign country accords national treat-  
12              ment to such organizations.

13          (2) EXCEPTIONS.—Paragraph (1) does not re-  
14          quire the Secretary to initiate negotiations with a  
15          foreign country if the Secretary—

16               (A) determines that the negotiations—

17                   (i) would be so unlikely to result in  
18                   progress toward according national treat-  
19                   ment to United States securities organiza-  
20                   tions as to be a waste of effort; or

21                   (ii) would impair the economic inter-  
22                   ests of the United States; and

23               (B) gives written notice of that determina-  
24               tion to the chairperson and the ranking minor-  
25               ity member of the Committee on Banking,

1           Housing, and Urban Affairs of the Senate and  
2           of the Committee on Energy and Commerce of  
3           the House of Representatives.

4           (g) REPORT.—

5           (1) CONTENTS OF REPORT.—Not later than  
6           December 1, 1994, and biennially thereafter, the  
7           Secretary shall submit to the Congress a report  
8           that—

9                   (A) specifies the foreign countries identi-  
10                  fied under subsection (b);

11                  (B) if a determination under subsection  
12                  (d)(1) is in effect with respect to the foreign  
13                  country, provides the reasons therefor;

14                  (C) if the Secretary has not made, or has  
15                  rescinded, a determination under subsection  
16                  (d)(1) with respect to the foreign country, pro-  
17                  vides the reasons therefor;

18                  (D) describes the results of any negotia-  
19                  tions conducted under subsection (f)(1) with the  
20                  foreign country; and

21                  (E) discusses the effectiveness of this sec-  
22                  tion in achieving the purpose of this section.

23           (2) SUBMISSION OF REPORT.—The report re-  
24           quired by paragraph (1) may be submitted as part  
25           of a report or update submitted under section 3602

1 of the Omnibus Trade and Competitiveness Act of  
2 1988.

3 (h) DEFINITIONS.—For purposes of this section, the  
4 following definitions shall apply:

5 (1) BROKER.—The term “broker” has the same  
6 meaning as in section 3(a)(4) of the Securities Ex-  
7 change Act of 1934.

8 (2) DEALER.—The term “dealer” has the same  
9 meaning as in section 3(a)(5) of the Securities Ex-  
10 change Act of 1934.

11 (3) COMMISSION.—The term “Commission”  
12 means the Securities and Exchange Commission.

13 (4) INVESTMENT ADVISER.—The term “invest-  
14 ment adviser” has the same meaning as in section  
15 202(a)(11) of the Investment Advisers Act of 1940.

16 (5) NATIONAL TREATMENT.—A foreign country  
17 accords “national treatment” to United States secu-  
18 rities organizations if it offers them the same com-  
19 petitive opportunities (including effective market ac-  
20 cess) as are available to its domestic securities orga-  
21 nizations.

22 (6) PERSON OF A FOREIGN COUNTRY.—The  
23 term “person of a foreign country” means—

24 (A) a person organized under the laws of  
25 the foreign country;

1 (B) a person that has its principal place of  
2 business in the foreign country;

3 (C) an individual who is—

4 (i) a citizen of the foreign country; or

5 (ii) domiciled in the foreign country;

6 and

7 (D) a person that is directly or indirectly  
8 controlled by a person described in subpara-  
9 graph (A) or (B), or by an individual described  
10 in subparagraph (C).

11 (7) SECRETARY.—The term “Secretary” means  
12 the Secretary of the Treasury.

13 (8) SECURITIES ORGANIZATION.—The term  
14 “securities organization” means a broker, a dealer,  
15 or an investment adviser.

16 (i) OTHER AUTHORITY NOT AFFECTED.—This sec-  
17 tion does not limit the authority of the Commission, the  
18 Secretary, or any other department or agency under any  
19 other provision of Federal law.

20 **SEC. 4. FINANCIAL INTERDEPENDENCE STUDY.**

21 Subtitle G of title III of the Omnibus Trade and  
22 Competitiveness Act of 1988 (22 U.S.C. 5351 et seq.) is  
23 amended by adding at the end the following new section:

1 **“SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.**

2 “(a) INVESTIGATION REQUIRED.—The Secretary, in  
3 consultation and coordination with the Securities and Ex-  
4 change Commission, the Federal banking agencies, and  
5 any other appropriate Federal department or agency des-  
6 ignated by the Secretary, shall conduct an investigation  
7 to determine—

8 “(1) the extent of the interdependence of the fi-  
9 nancial services sectors of the United States and for-  
10 eign countries—

11 “(A) whose financial services institutions  
12 provide financial services in the United States;  
13 or

14 “(B) whose persons have substantial own-  
15 ership interests in United States financial serv-  
16 ices institutions; and

17 “(2) the economic, strategic, and other con-  
18 sequences of that interdependence for the United  
19 States.

20 “(b) REPORT.—

21 “(1) REPORT REQUIRED.—Not later than 3  
22 years after the date of enactment of this section, the  
23 Secretary shall submit a report on the results of the  
24 investigation under subsection (a) to the President,  
25 the Congress, the Securities and Exchange Commis-  
26 sion, the Federal banking agencies, and any other

1 appropriate Federal agency or department, as des-  
2 ignated by the Secretary.

3 “(2) CONTENTS OF REPORT.—The report re-  
4 quired under paragraph (1) shall—

5 “(A) describe the activities and estimate  
6 the scope of financial services activities con-  
7 ducted by United States financial services insti-  
8 tutions in foreign markets (differentiated ac-  
9 cording to major foreign markets);

10 “(B) describe the activities and estimate  
11 the scope of financial services activities con-  
12 ducted by foreign financial services institutions  
13 in the United States (differentiated according  
14 to the most significant home countries or  
15 groups of home countries);

16 “(C) estimate the number of jobs created  
17 in the United States by financial services activi-  
18 ties conducted by foreign financial services in-  
19 stitutions and the number of jobs created in  
20 foreign countries by financial service activities  
21 conducted by United States financial services  
22 institutions;

23 “(D) estimate the additional jobs and reve-  
24 nues (both foreign and domestic) that would be  
25 created by the activities of United States finan-



1           cial services institutions in foreign countries if  
2           those countries offered such institutions the  
3           same competitive opportunities (including effective  
4           market access) as are available to the domestic  
5           financial services institutions of those  
6           countries;

7           “(E) describe the extent to which foreign  
8           financial services institutions discriminate  
9           against United States persons in procurement,  
10          employment, the provision of credit or other financial  
11          services, or otherwise;

12          “(F) describe the extent to which foreign  
13          financial services institutions and other persons  
14          from foreign countries purchase or otherwise facilitate  
15          the marketing from the United States of  
16          government and private debt instruments and  
17          private equity instruments;

18          “(G) describe how the interdependence of  
19          the financial services sectors of the United  
20          States and foreign countries affects the autonomy  
21          and effectiveness of United States monetary  
22          policy;

23          “(H) describe the extent to which United  
24          States companies rely on financing by or  
25          through foreign financial services institutions

1 and the consequences of such reliance (includ-  
2 ing disclosure of proprietary information) for  
3 the industrial competitiveness and national se-  
4 curity of the United States;

5 “(I) describe the extent to which foreign fi-  
6 nancial services institutions, in purchasing high  
7 technology products such as computers and  
8 telecommunications equipment, favor manufac-  
9 turers from their home countries over United  
10 States manufacturers; and

11 “(J) contain other appropriate information  
12 relating to the results of the investigation re-  
13 quired by subsection (a).

14 “(c) DEFINITIONS.—For purposes of this section the  
15 following definitions shall apply:

16 “(1) DEPOSITORY INSTITUTION AND DEPOSI-  
17 TORY INSTITUTION HOLDING COMPANY.—The terms  
18 ‘depository institution’ and ‘depository institution  
19 holding company’ have the same meanings as in sec-  
20 tion 3 of the Federal Deposit Insurance Act.

21 “(2) FEDERAL BANKING AGENCY.—The term  
22 ‘Federal banking agencies’ has the same meaning as  
23 in section 3 of the Federal Deposit Insurance Act.

24 “(3) FINANCIAL SERVICES INSTITUTION.—The  
25 term ‘financial services institution’ means—

1           “(A) a broker, dealer, underwriter, clearing  
2           agency, transfer agent, or information processor  
3           with respect to securities, including government  
4           and municipal securities;

5           “(B) an investment company, investment  
6           manager, investment adviser, indenture trustee,  
7           or any depository institution, insurance com-  
8           pany, or other organization operating as a fidu-  
9           ciary, trustee, underwriter, or other financial  
10          services provider;

11          “(C) any depository institution or deposi-  
12          tory institution holding company; and

13          “(D) any other entity providing financial  
14          services.

15          “(4) SECRETARY.—The term ‘Secretary’ means  
16          the Secretary of the Treasury.”.

17 **SEC. 5. CONFORMING AMENDMENTS.**

18          (a) REPORTS ON FOREIGN TREATMENT OF UNITED  
19          STATES FINANCIAL INSTITUTIONS.—Section 3602 of the  
20          Omnibus Trade and Competitiveness Act of 1988 (22  
21          U.S.C. 5352) is amended—

22                (1) in the first sentence, by inserting “with up-  
23                dates on significant developments every 2 years fol-  
24                lowing the study conducted in 1994,” before “the  
25                Secretary of the Treasury”; and

1           (2) by adding at the end the following: “For  
2       purposes of this section, a foreign country denies na-  
3       tional treatment to United States entities unless the  
4       foreign country offers such entities the same com-  
5       petitive opportunities (including effective market ac-  
6       cess) as are available to the domestic entities of the  
7       foreign country.”.

8       (b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FI-  
9       NANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus  
10      Trade and Competitiveness Act of 1988 (22 U.S.C.  
11      5353(a)(1)) is amended by inserting “effective” before  
12      “access”.

13      (c) PRIMARY DEALERS IN GOVERNMENT DEBT IN-  
14      STRUMENTS.—Section 3502(b)(1) of the Omnibus Trade  
15      and Competitiveness Act of 1988 (22 U.S.C. 5342(b)(1))  
16      is amended—

17           (1) by striking “does not accord to” and insert-  
18           ing “does not offer”; and

19           (2) by striking “as such country accords to”  
20           and inserting “(including effective market access) as  
21           are available to”.

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